

FILED

MAY 28 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2009-4189

12 **FABIOLA GUADALUPE MAYORAL**
13 **101 Fresno Street**
Avenal, California 93204

A C C U S A T I O N

14 **Vocational Nurse License No. VN 206353**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely
20 in her official capacity as the Executive Officer of the Board of Vocational Nursing and
21 Psychiatric Technicians ("Board"), Department of Consumer Affairs.

22 2. On or about September 29, 2003, the Board issued Vocational Nurse License Number
23 VN 206353 to Fabiola Guadalupe Mayoral ("Respondent"). Respondent's vocational nurse
24 license expired on January 31, 2013.

25 **STATUTORY PROVISIONS**

26 3. Business and Professions Code ("Code") section 2875 provides, in pertinent part, that
27 the Board may discipline the holder of a vocational nurse license for any reason provided in
28 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

1 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a
2 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
3 period within which the license may be renewed, restored, reissued or reinstated. Under Code
4 section 4545, the Board may renew an expired license at any time within four years after the
5 expiration.

6 5. Code section 2878 states, in pertinent part:

7 The Board may suspend or revoke a license issued under this chapter [the
8 Vocational Nursing Practice Act (Bus. & Prof. Code § 2840, et seq.)] for any of the
following:

9 (a) Unprofessional conduct . . .

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11 (f) Conviction of a crime substantially related to the qualifications,
12 functions, and duties of a licensed vocational nurse, in which event the record of the
conviction shall be conclusive evidence of the conviction.

13

14 (j) The commission of any act involving dishonesty, when that action is
15 related to the duties and functions of the licensee . . .

16 6. Code section 2878.6 states:

17 A plea or verdict of guilty or a conviction following a plea of nolo
18 contendere made to a charge substantially related to the qualifications, functions and
duties of a licensed vocational nurse is deemed to be a conviction within the meaning
19 of this article. The board may order the license suspended or revoked, or may decline
to issue a license, when the time for appeal has elapsed, or the judgment of conviction
20 has been affirmed on appeal or when an order granting probation is made suspending
the imposition of sentence, irrespective of a subsequent order under the provisions of
21 Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty
and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
22 the accusation, information or indictment.

23 7. Code section 490, subdivision (a), states:

24 In addition to any other action that a board is permitted to take against a
25 licensee, a board may suspend or revoke a license on the ground that the licensee has
been convicted of a crime, if the crime is substantially related to the qualifications,
26 functions, or duties of the business or profession for which the license was issued.

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1 8. California Code of Regulations, title 16, section ("Regulation") 2518.6 states, in
2 pertinent part:

3
4 (b) A licensed vocational nurse shall adhere to standards of the profession
5 and shall incorporate ethical and behavioral standards of professional practice which
6 include but are not limited to the following:

7
8 (3) Maintaining professional boundaries with the patient/client;
9

10 (c) A violation of this section constitutes unprofessional conduct for
11 purposes of initiating disciplinary action.

12 COST RECOVERY

13 9. Code section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licensee found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 FIRST CAUSE FOR DISCIPLINE

18 (Criminal Conviction)

19 10. Respondent is subject to disciplinary action pursuant to Code sections 2878,
20 subdivision (f), and 490, subdivision (a), in that on or about September 23, 2011, in Kings County
21 Superior Court, Case No. 10CM8598, Respondent pled guilty to violating Penal Code section
22 484, subdivision (a) (theft), a misdemeanor, a crime substantially related to the qualifications,
23 functions, and duties of a licensed vocational nurse. The circumstances of the crime are as
24 follows: On or about November 17, 2009, an officer with the Avenal Police Department ("APD")
25 assisted Gang Task Force units in the service of a search warrant at Respondent's residence.
26 During the investigation of another criminal matter, Juan Moreno ("Moreno"), a deported felon,
27 was arrested for assault on a peace officer, in addition to other charges (Moreno was determined
28 to be a Sureno gang member). After Moreno's arrest, the APD learned he was living with
Respondent, his common-law wife, who had been employed as a licensed vocational nurse at

1 Avenal State Prison.¹ A stab resistant tactical vest was recovered from at the residence at the
2 time of the search. The officer contacted Lt. R.S. of the ISU unit at the prison and gave him the
3 ID number of the vest. Lt. R.S. told the officer that the vest did not belong to Respondent and
4 was the property of the California Department of Corrections and Rehabilitation ("CDCR"), that
5 Respondent did not have permission to take it from the prison, and that CDCR considered the vest
6 stolen. Later that same day, the officer and Investigator J.D. went to the prison and interviewed
7 Respondent. Respondent initially claimed that she had met Moreno in January 2006 while on a
8 trip to Mexico. Respondent and Moreno had sex various times and Respondent became pregnant.
9 Respondent also claimed that Moreno had come up from Mexico and had begun living with her
10 and her four (4) children about one year earlier. The officer and J.D. informed Respondent that
11 they knew Moreno had been an inmate in the prison and that she had been a nurse at the facility
12 during the same time frame. Respondent then admitted that she had met Moreno while she was
13 on duty in the prison. Respondent claimed that she and Moreno had only talked to each other, but
14 had no physical contact while he was in custody (the officer was later informed by Lt. R.S. that
15 Respondent and Moreno had face-to-face contact while Respondent was a nurse and Moreno was
16 an inmate in the Special Housing Unit). Respondent admitted that she had smuggled several
17 items, including a cell phone and other contraband, into the prison for Moreno. Respondent also
18 admitted she had written a letter to the prison, stating that she was living with a convicted felon,
19 but concealed the fact that the individual was a former inmate in the prison and a deported felon.
20 Respondent also stated that she had lied to several law enforcement officials, including Sheriff's
21 deputies and prison staff, as to Moreno's true identity.

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26 ¹ On December 27, 2010, the Board was informed by a representative of CDCR that
27 Respondent had been employed as a licensed vocational nurse at the prison; however, she had
28 resigned from state service on August 12, 2008. Prior to Respondent's resignation, the Kings
County Sheriff's Office had notified the ASP Investigative Services Unit that she was involved
with a parolee (Moreno).

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 11. Respondent is subject to disciplinary action pursuant to Code section 2878,
4 subdivision (a), on the grounds of unprofessional conduct, as defined by Regulation 2518.6,
5 subdivisions (b)(3) and (c), in that Respondent failed to maintain professional boundaries with
6 inmate Juan Moreno while she was on duty as a licensed vocational nurse at Avenal State Prison,
7 as set forth in paragraph 10 above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Dishonest Acts)**


10 12. Respondent is subject to disciplinary action pursuant to Code section 2878,
11 subdivision (j), in that she committed acts involving dishonesty while licensed as a vocational
12 nurse, as set forth in paragraph 10 above.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
16 issue a decision:

- 17 1. Revoking or suspending Vocational Nurse License Number VN 206353, issued to
18 Fabiola Guadalupe Mayoral;
- 19 2. Ordering Fabiola Guadalupe Mayoral to pay the Board of Vocational Nursing and
20 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
21 pursuant to Business and Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: May 28, 2013


25 TERESA BELLO-JONES, J.D., M.S.N., R.N.
26 Executive Officer
27 Board of Vocational Nursing and Psychiatric Technicians
28 Department of Consumer Affairs
State of California
Complainant

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